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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,896	11/02/2005	Arthur Raymond Winn	BMADD 1031736	9489
27111 GORDON & REES LLP 101 WEST BROADWAY SUITE 1600 SAN DIEGO, CA 92101	7590 10/17/2008		EXAMINER TUCKER, DANIEL P	
			ART UNIT 4159	PAPER NUMBER
			NOTIFICATION DATE 10/17/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocket@gordonrees.com  
cworthem@gordonrees.com

# Office Action Summary

**Application No.**

10/523,896

**Applicant(s)**

WINN ET AL.

**Examiner**

Daniel Tucker

**Art Unit**

4159

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 14 is objected to because of the following informalities: The phrase "mi ill" in line 3 should be replaced by the word "infill". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 8 recites the limitation "said adjacent vertical margins" in line 8. There is insufficient antecedent basis for this limitation in the claim. No adjacent vertical margins a claimed prior to this limitation.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11 and 13-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent No. 3,633,348 A1 (Siegfried hereinafter) in view of US Patent No. 5,161,709 (Oestreich, Jr. hereinafter) and US Patent No. 1,129,040 (McClure hereinafter).



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6. In re Claim 1, with reference to Fig. 2 above, Siegfried discloses:

A collapsible storage container comprising:

- a base (5),
- two pairs of opposite side (3, 4) and end gates (1, 2) each pivotally mounted (16) with respect to the base (5) for folding movement between an erect in-use position and a collapsed position on top of the base (5), each said gate having a rectangular or square infill panel (14, 18) having an inner face and an outer face, and an outer perimeter frame (12, 17) secured to the outer face of the infill panel (14, 18).

Siegfried does not disclose first elongate perimeter frame attachment members, second perimeter frame attachment members, and locking means.

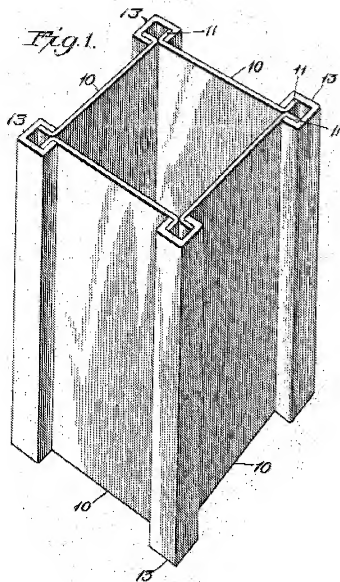


Fig. 1 of US Patent No. 1,129,040 (McClure hereinafter)

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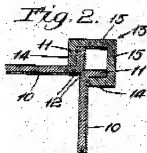


Fig. 2 of McClure

7. With reference to Fig. 1 and Fig. 2 of McClure above, McClure discloses a "first elongate perimeter frame attachment members (13) attached to and extending along opposite vertical margins of each of the side gates and each having a laterally inwards directed locking flange (14) which lies in a plane parallel to the plane of the inner face of said infill panel and spaced inwardly therefrom."

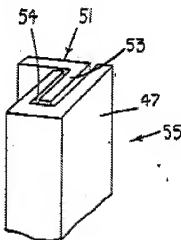
**FIG. 12**

Fig. 12 of US Patent No. 5,161,709 (Oestreich, Jr. hereinafter)

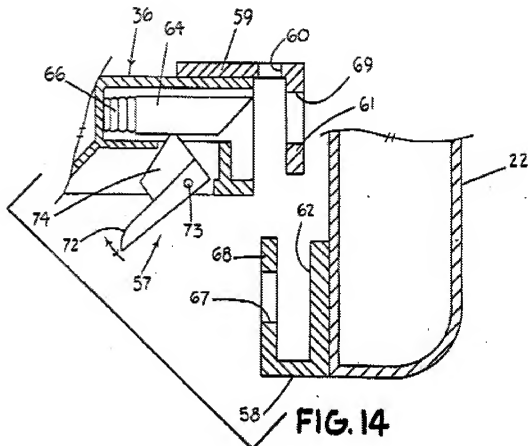


Fig. 14 of Oestreich, Jr.

8. With reference to Fig. 12 and Fig. 14 above, Oestreich, Jr. discloses:
- second elongate perimeter frame attachment members (51, 59) attached to and extending along opposite vertical margins of each of the end gates (36) and defining therewith an outwardly opening locking flange receiving slot,
  - said first and second frame attachment members, when the container is in its erect in-use condition, interlocking with one another with said locking flanges located in respective said flange receiving slots (Fig. 12), and
  - locking means (57, 64, 66, 72, 73, and 74) to releasably lock the first and second frame attachment members against relative movement when in their interlocking



condition and to in turn lock pairs of adjacent side and end gates together in their erect in-use positions (col. 9, lines 11-17).

9. Thus, it would have been obvious to one having ordinary skill in the pertinent art at the time the invention was made to have modified the container of Siegfried to have a first elongate perimeter frame attachment member as taught by McClure and a second frame attachment member and locking means as taught by Oestreich, Jr. in order to achieve the predictable result of securing the gates in erect in- use positions.

10. In re Claim 2, with reference to Fig. 1 and Fig. 2 of McClure above, McClure discloses "each said first perimeter frame attachment (13) member is an approximate C-section post which terminates at one of its ends in said laterally inwards directed locking flange (14), the free edge of said locking flange being spaced laterally outwards from the vertical margin of the outer frame, and at its other end in an intumed inwardly directed attachment flange arranged to be attached to a respective said vertical margin."

11. In re Claim 4, with regards to the "means for detachably securing each of said first frame attachment member along a respective vertical margin of its associated said gate", this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6<sup>th</sup> paragraph. In the specification, page 6, lines 20-23, the "said means for detachably securing each of said first frame attachment member along a respective vertical margin of its associated said gate" is shown in Fig. 4. With reference to Fig. 14 above, Oestreich, Jr. discloses a plurality of retractable spring (66) loaded locking bolts (64). The plurality of spring retractable spring loaded locking bolts in Oestreich, Jr. are considered to be an equivalent to applicant's means for securing because it performs

the same function in substantially the same way and produces substantially the same result as the corresponding element in applicant's specification. See MPEP 2183.

12. In re Claim 5, with reference to Fig. 14 above, Oestreich, Jr. discloses "said detachable securing means comprises a plurality of spring-loaded (66) locking bolts (64) movable between an extending locking position wherein each locking bolt passes through an aperture (67) formed in said attachment flange of the C-section post and a retracted unlocked position, in which position the C-section post can be detached from its associated said gate.

13. In re Claim 19, with reference to Fig. 12 and Fig. 14 above, Oestreich, Jr. discloses "each said side gate (36) is provided with an angle section frame member (51, 59) extending along each of its vertical margins, each angle section frame member having one of its flanges abutting the inner face of the infill panel, and its other flange (53, 61) extending rearwardly and lying parallel to a vertical margin of the outer perimeter frame, said other flange being spaced from said vertical margin so as to define an elongate slot for receiving a respective said attachment flange of a said C-section post."

14. In re Claim 20, with reference to Fig. 14 above, Oestreich, Jr. discloses "said locking means comprises a spring-loaded (66) slidable latching bolt (64) mounted adjacent each of the upper corner regions of the end gates and which is arranged to pass through aligned holes or openings formed in the locking flange (67) of the first attachment member and a wall (69) of the second frame attachment member."

15. In re Claim 6, with reference to Fig. 12 and Fig. 14 above, Oestreich, Jr. discloses "each said side gate (36) is provided with an angle section frame member (51, 59) extending along each of its vertical margins, each angle section frame member having one of its flanges abutting the inner face of the infill panel, and its other flange (53, 61) extending rearwardly and lying parallel to a vertical margin of the outer perimeter frame, said other flange being spaced from said vertical margin so as to define an elongate slot for receiving a respective said attachment flange of a said C-section post."

16. In re Claim 14, with reference to Fig. 12 and Fig. 14 above, Oestreich discloses "said second perimeter frame (51, 59) attachment member is of angle cross-section having one flange contiguous with the inner face of its associated said infill panel, and its other flange (53, 61) projecting outwardly and lying parallel with a respective said vertical margin of the gate and spaced therefrom so as to form a respective said flange receiving slot which extends approximately the length of the vertical edge of the gate."

17. In re Claim 15, with regards to the "means for detachably securing each of said first frame attachment member along a respective vertical margin of its associated said gate", this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6<sup>th</sup> paragraph. In the specification, page 6, lines 20-23, the "said means for detachably securing each of said first frame attachment member along a respective vertical margin of its associated said gate" is shown in Fig. 4. With reference to Fig. 14 above, Oestreich, Jr. discloses a plurality of retractable spring (66) loaded locking bolts (64). The plurality of spring retractable spring loaded locking bolts in Oestreich, Jr. are

considered to be an equivalent to applicant's means for securing because it performs the same function in substantially the same way and produces substantially the same result as the corresponding element in applicant's specification. See MPEP 2183.

18. In re Claim 16, with reference to Fig. 14 above, Oestreich, Jr. discloses "said detachable securing means comprises a plurality of spring-loaded (66) locking bolts (64) movable between an extending locking position wherein each locking bolt passes through an aperture (67) formed in said attachment flange of the C-section post and a retracted unlocked position, in which position the C-section post can be detached from its associated said gate.

19. In re Claim 17, with reference to Fig. 12 and Fig. 14 above, Oestreich, Jr. discloses "each said side gate (36) is provided with an angle section frame member (51, 59) extending along each of its vertical margins, each angle section frame member having one of its flanges abutting the inner face of the infill panel, and its other flange (53, 61) extending rearwardly and lying parallel to a vertical margin of the outer perimeter frame, said other flange being spaced from said vertical margin so as to define an elongate slot for receiving a respective said attachment flange of a said C-section post."

20. In re Claim 18, with reference to Fig. 14 above, Oestreich, Jr. discloses "said locking means comprises a spring-loaded (66) slidable latching bolt (64) mounted adjacent each of the upper corner regions of the end gates and which is arranged to pass through aligned holes or openings formed in the locking flange (67) of the first attachment member and a wall (69) of the second frame attachment member."

21. In re Claim 21, with reference to Fig. 14 above, Oestreich, Jr. discloses "said locking means comprises a spring-loaded (66) slidable latching bolt (64) mounted adjacent each of the upper corner regions of the end gates and which is arranged to pass through aligned holes or openings formed in the locking flange (67) of the first attachment member and a wall (69) of the second frame attachment member."

22. In re Claim 3, with reference to Fig. 12 and Fig. 14 above, Oestreich discloses "said second perimeter frame (51, 59) attachment member is of angle cross-section having one flange contiguous with the inner face of its associated said mill panel, and its other flange (53, 61) projecting outwardly and lying parallel with a respective said vertical margin of the gate and spaced therefrom so as to form a respective said flange receiving slot which extends approximately the length of the vertical edge of the gate."

23. In re Claim 7, with reference to Fig. 14 above, Oestreich, Jr. discloses "said locking means comprises a spring-loaded (66) slidable latching bolt (64) mounted adjacent each of the upper corner regions of the end gates and which is arranged to pass through aligned holes or openings formed in the locking flange (67) of the first attachment member and a wall (69) of the second frame attachment member."

24. In re Claim 11, Oestreich, Jr. discloses "said infill panel is clampingly secured between said angle frame members and the outer perimeter frame by means of screws or other suitable removable fasteners (col. 8, line 68 through col. 9, line 3)."

25. In re Claim 8, with reference to Fig. 2 above, Siegfried discloses:  
A collapsible storage container comprising:

- a base (5),

- two pairs of opposite side (3, 4) and end gates (1, 2) each pivotally mounted (16) with respect to the base (5) for folding movement between an erect in-use position and a collapsed position on top of the base (5), each said gate having an infill panel (14, 18) having an inner face and an outer face, and an outer perimeter frame (12, 17) secured to the outer face of the infill panel (14, 18).

Siegfried does not disclose a corner post member, flange receiving slots, or locking means.

26. With reference to Fig. 1 and Fig. 2 of McClure above, McClure discloses "a corner post member (13) detachably secured to and abutting respective said vertical margins, said post member having a pair of inwardly directed locking flanges (14)."

27. With reference to Fig. 14 above, Oestreich, Jr. discloses a flange receiving slot (space to the left of 61). And locking means.

28. With regards to the "means for releasably locking each within its associated said flange receiving slot", this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6<sup>th</sup> paragraph. The "means for releasably locking each within its associated said flange receiving slot" is shown in the specification, page 6, lines 20-23 and in Fig. 4. With reference to Fig. 14 above, Oestreich, Jr. discloses a plurality of retractable spring (66) loaded locking bolts (64). The plurality of spring retractable spring loaded locking bolts in Oestreich, Jr. are considered to be an equivalent to applicant's means for securing because it performs the same function in substantially the same way and produces substantially the same result as the corresponding element in applicant's specification. See MPEP 2183.

29. Thus, it would have been obvious to one having ordinary skill in the pertinent art at the time the invention was made to have modified the container of Siegfried to have a corner post member as taught by McClure and flange receiving slots and locking means as taught by Oestreich, Jr. in order to achieve the predictable result of securing the gates in erect in- use positions.

30. In re Claim 9, with reference to Fig. 12 and Fig. 14 above, Oestreich, Jr. discloses "each of the side gates has an elongate angle frame member (51, 59) extending along each of its vertical margins with one of its flanges abutting the inner face of the infill panel and its other said outwardly directed flange (53, 61) extending parallel to the vertical margin of the gate and spaced outwards therefrom so as to define said outwardly opening flange receiving slot extending along the entire length of the vertical edge of the gate."

31. In re Claim 10, with reference to Fig. 12 and Fig. 14 above, Oestreich, Jr. discloses "said locking means comprise slidable latch bolts (64) mounted in the region of the upper and lower corners of a respective said gate, each said bolt, when in its latching position, respectively passing through aligned holes (67, 69) formed in the flanges."

Oestreich, Jr. only discloses latch bolts in the upper corners of the gates; however it would have been obvious to one having ordinary skill in the art at the time the invention was made to place latch bolts at the lower corners of the gates, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

32. In re Claim 13, Oestreich, Jr. discloses "said infill panel is clampingly secured between said angle frame members and the outer perimeter frame by means of screws or other suitable removable fasteners (col. 8, line 68 through col. 9, line 3)."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent No. 5,261,550 discloses a collapsible container with locking means. US Patent No. 4,020,967 discloses a collapsible container with locking means. US Patent No. 3,401,814 discloses a collapsible container with corner post members. US Patent No. 6 discloses a collapsible container with corner post members. US Patent No. 5,711,444 discloses a collapsible container with corner post members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Tucker whose telephone number is (571)270-5722. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on (571)272-4491. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. T./

Examiner, Art Unit 4159

/George Nguyen/

Supervisory Patent Examiner, Art Unit 4159